

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**ERIC R LEWIS**

Claimant

**HEARING NUMBER: 17BUI-07381**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed July 26, 2017. The notice set a hearing for August 8, 2017. The Claimant complied on July 28, 2017 by immediately registering a telephone number at which he could be reached for the hearing. He also made arrangements with his Employer to be available for the hearing. On the day of the hearing, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because he was unable to instantly take the call due to a malfunction in his machine, which would have caused a shutdown in production. He immediately contacted the agency as soon as the problem was remedied, but the record was closed.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Here the Claimant did not participate in the hearing through no fault of the Claimant. The Claimant did not participate because he had an urgent situation in the workplace that prohibited him from taking the call. The Claimant has sufficiently demonstrated his intention to follow through his appeal by taking the necessary steps to participate, but for the unforeseen circumstance. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail himself of his due process right.

**DECISION:**

The decision of the administrative law judge dated August 9, 2017 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

AMG/fnv